

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE BEFORE THE
BOARD OF PATENT APPEALS AND INTERFERENCES**

APPLICANT(S): LIM, Seok-Hun

GROUP ART UNIT: 2174

APPLICATION NO.: 10/757,911

EXAMINER: MUHEBBULLAH, Sajeda

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**FOR: METHOD OF CHANGING SETTING OF USER SETTING MENU IN A
MOBILE TERMINAL**

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Commissioner for Patents
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APPELLANT'S REPLY BRIEF

In response to the Examiner's Answer dated December 23, 2008 (the Examiner's Answer), Appellant respectfully submits that based on at least the arguments provided in the Appeal Brief of September 29, 2008 (the Appeal Brief), Claims 1-6 are patentable over U.S. Patent 6,990,333 to Andrew et al.

Claims 1-6 are pending in the Appeal. Claims 1 and 4 are in independent form. For the purposes of this Appeal, Claims 1-3 stand or fall together and Claims 4-6 stand or fall together.

The following comments are respectfully submitted in order to address statements made in the Examiner's Answer.

In the Examiner's Answer, the Examiner reiterated the rejection set forth in the Final Office Action mailed on December 27, 2007 (Final Office Action), and on pages 5 and 6, addressed certain of Appellant's arguments presented in the Appeal Brief.

Each of independent Claims 1 and 4 recite, in part, registering the user setting menu options selected by the user and changing the user setting menu options in the selected scheduling setting group...upon expiration of the timing value of the scheduling timer. The Examiner states that Andrew et al. clearly discloses a step of registering wherein a user may choose settings and registers them in a profile/group (col. 4, lines 58-65). (Examiner's Response, page 5).

MPEP §2131 Anticipation, clearly states that to anticipate a claim, the reference must teach every element of the claim. In addition, The United States Court of Appeals for the Federal Circuit recently held “that unless a reference discloses within the four corners of the document not only all of the limitations claimed but also all of the limitations arranged or combined in the same way as recited in the claim, it cannot be said to prove prior invention of the thing claimed and, thus, cannot anticipate under 35 U.S.C. § 102.” Net Moneyin, Inc., v. Verisign, Inc., 2008 U.S. App. LEXIS 21827 (CAFC 2008). Andrew et al. does not disclose within the four corners of the document all of the limitations claimed nor all of the limitations arranged or combined in the same way as recited in the claim. The Examiner has not met his initial burden of proof to establish a *prima facie* case for the §102(e) rejection.

Andrew et al., at column 4, lines 58-65, relates to the time periods for a timed profile, which may be a default setting set by a user or set prior to a purchase of the mobile phone (Step 306, FIG. 3), or instead of having a default period, a user may be prompted to enter a timed profile prior to activating the timed profile. Therefore, by citing this passage, the Examiner is comparing the time period of Andrew et al. to the registered “user setting menu options” of the present application.

However, independent Claims 1 and 4 further state that the user setting menu options are changed upon expiration of the timing value of the scheduling timer. The Examiner states that Andrew et al. teaches this limitation at column 7, lines 55-67). However, this passage states relates to a device returning to a previous profile whenever a timed profile is no longer active. However, Andrew et al. does not state that returning to a previous profile involves changing the default period. It is noted that Andrew et al. further discloses a period time that may be adjusted (FIG. 4, Step 410),

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but that the Examiner asserts that the “period time” corresponds to the timing value of the scheduling timer of the present application. (Final Office Action, page 4). Therefore, the “period time” of Andrew et al. cannot correspond to the “user setting menu options” of the present application, as all of the limitations of the prior art reference must be arranged or combined in the same way as the recited claims. Therefore, Andrew et al. does not teach all of the limitations of Claims 1 and 4.

Appellant respectfully submits that the Examiner has erred in rejecting Claims 1 and 4, and that these claims are not anticipated under 35 U.S.C. § 102(a) by Andrew et al.

While not conceding the patentability of the dependent claims, *per se*, Claims 2-3 and 5-6 are also allowable for at least the above reasons.

CONCLUSION

Based on at least the foregoing, and as the Examiner has failed to make out a *prima facie* case for an anticipation rejection, the rejections of Claims 1 and 4 must be reversed.

Accordingly, independent Claims 1 and 4 are not anticipated by Andrew et al.

Dependent Claims 2-3 and 5-6 are also not anticipated by Andrew et al., for at least the above reasons.

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